

# HOUSE BILL REPORT

## HB 1009

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**As Reported by House Committee On:**  
Technology, Energy & Communications  
Finance

**Title:** An act relating to extending the expiration dates for existing sales and use tax exemptions related to certain electricity generation.

**Brief Description:** Extending the expiration dates for existing sales and use tax exemptions related to certain electricity generation.

**Sponsors:** Representatives Morris, Chase, Liias, Anderson, Orcutt, Seaquist, Hudgins and Moeller.

**Brief History:**

**Committee Activity:**

Technology, Energy & Communications: 2/9/09, 2/18/09 [DPS];

Finance: 2/27/09, 3/2/09 [DP2S(w/o sub TEC)].

**Brief Summary of Second Substitute Bill**

- Extends the expiration date for the sales and use tax exemption for eligible renewable energy and fuel cell machinery and equipment.
- Limits the sales and use tax exemption for eligible renewable energy and fuel cell machinery and equipment to 25 percent of the state sales and use tax.
- Specifies that the sales and use tax exemption is available to a qualifying utility under the Energy Independence Act, or to a person contracting with a qualifying utility for the sale of electric power generated by eligible renewable energy and fuel cell machinery and equipment.
- Changes sales and use tax exemption to a refund mechanism.

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### HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives McCoy, Chair; Eddy, Vice Chair; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Carlyle, Condotta, Finn, Hasegawa, Herrera, Hudgins, Jacks, McCune, Morris, Takko and Van De Wege.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Scott Richards (786-7156)

**Background:**

Sales and Use Tax.

Sales tax is imposed on retail sales of most items of tangible personal property and some services. The use tax is imposed on the same privilege of using tangible personal property or services in instances where the sales tax does not apply. Sales taxes are levied by the state, counties, and cities, and total rates vary from 7 to 8.9 percent. The use tax is paid directly to the Department of Revenue.

Sales and Use Tax Exemption for Renewable Energy Machinery and Equipment.

A retail sales and use tax exemption applies to the sale or use of machinery and equipment used directly in generating electricity from renewable sources. The qualifying sources are fuel cells, wind, sun, and landfill gas. The exemption also applies to labor and services rendered in respect to the installation of eligible machinery and equipment. The generating facility must be capable of generating at least 200 watts of electricity.

The exemption expires June 30, 2009.

Legislative Tax Preference Performance Reviews.

In 2008 the Joint Legislative Audit and Review Committee, as part of its tax preference performance review process, estimated the total state and local taxpayer savings related to this tax incentive to be \$26.7 million in the 2008 fiscal year, growing to \$36.4 million by the 2011 fiscal year.

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**Summary of Substitute Bill:**

A sales and use tax exemption exists for machinery and equipment used directly in generating electricity using fuel cells, wind, sun, or landfill gas as the principal source of power. The sales and use tax exemption is available to a qualifying utility, or to a person contracting with a qualifying utility for the sale of electric power generated by a facility containing machinery and equipment used directly in generating electricity using fuel cells, wind, sun, or landfill gas as the principal source of power.

The expiration date for the tax incentive is June 30, 2020.

A "qualifying utility" is defined as an electric utility that is required to use eligible renewable resources under the Energy Independence Act (Initiative 937).

**Substitute Bill Compared to Original Bill:**

The substitute bill specifies that qualifying utilities as defined under the Energy Independence Act are eligible for the sales and use tax exemption, as well as persons contracting with a qualifying utility for the sale of electric power generated for eligible facilities.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect on June 30, 2009.

**Staff Summary of Public Testimony:**

(In support) The incentive is working. This bill is trying to link the sales and use tax incentive to support the goals of the Energy Independence Act. The way this incentive is structured in the bill will encourage the development of wind power in Washington. This tax incentive creates significant jobs and capital investment in rural areas of the state where the state's best wind resources are located. The tax incentive helps to create family wage jobs. It is a very competitive environment for renewable energy development. Incentives such as this one play an important role in developing renewable energy projects. Washington has tax preferences for coal and oil without an expiration date. The state needs to maintain a tax incentive to encourage renewable energy in the state.

(In support with concerns) The bill is too limiting for engine based co-generation of power. Language needs to be provided in the bill to include these technologies. The bill may be too narrow to account for the many ways renewable energy projects are developed and financed. The bill needs to be amended to account for these situations.

(Opposed) None.

**Persons Testifying:** (In support) Representative Morris, prime sponsor; Debbie Strand, Stand Consulting; Tyson Utt, Horizon Wind Energy; Robert Kahn, Northwest and Intermountain Power Producers Association; Craig Engelking, Sierra Club; and Naomi Meyer and Zoe Hamilton, Washington State Legislative Youth Advisory Council.

(In support with concerns) Chuck Collins, Cascade Power; Collins Sprague, Avista Corporation; and Carrie Dolwick, Northwest Energy Coalition.

(Opposed) None.

**Persons Signed In To Testify But Not Testifying:** None.

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**HOUSE COMMITTEE ON FINANCE**

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Technology, Energy & Communications. Signed by 9 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Condotta, Conway, Ericks, Santos and Springer.

**Staff:** Jeffrey Mitchell (786-7139)

**Summary of Recommendation of Committee On Finance Compared to Recommendation of Committee On Technology, Energy & Communications:**

The sales and use tax exemption is changed to a refund mechanism and is limited to 25 percent of the state sales and use tax.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Second Substitute Bill:** The bill contains an emergency clause and takes effect on June 30, 2009.

**Staff Summary of Public Testimony:**

(In support) This tax incentive will not only help us and our customers, but also bring more of these developers to our state. This bill will benefit rural communities. There is a problem with the definition of qualifying utility because some utilities might not be able to meet the 25,000 customer requirement. Wind generation is approximately 10-15 percent more expensive than natural gas. Without this tax break, our customers will have to pay more than customers deriving energy from natural gas power plants. This is not the time to discourage renewable energy development. A main competitor with Washington state for these projects is Oregon, which has no sales tax and a strategic investment program. The state of Idaho also provides a sales and use tax exemption for these renewable projects. These projects that come to our state pay property taxes and support local communities.

(Opposed) None.

**Persons Testifying:** Dave Andrew, Cowlitz County PUD; Ken Johnson, Puget Sound Energy; Dave Arbaugh, Northwest and Inter-Mountain Power Producers; and Collins Sprague, Avista Corp.

**Persons Signed In To Testify But Not Testifying:** None.